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SERVICE DATE - DECEMBER 10, 1997

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-3 (Sub-No. 60X)

MISSOURI PACIFIC RAILROAD COMPANY--ABANDONMENT  
EXEMPTION--IN SHAWNEE AND OSAGE COUNTIES, KS

Decided: December 4, 1997

On May 24, 1989, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding which authorized the Rails-to-Trails Coalition of Kansas (Coalition)<sup>1</sup> and Pioneer Legacy Foundation (Pioneer) to negotiate an interim trail use/rail banking agreement with Missouri Pacific Railroad Company (MP)<sup>2</sup> for 21.79 miles (between milepost 382.93 and milepost 404.72) of the 22.92-mile right-of-way authorized for abandonment in this proceeding.

By decision served September 12, 1996, the NITU issued as part of the May 24 decision was vacated and Seranata Farms School of Equestrian Arts (Seranata) was authorized to replace Coalition and Pioneer as the new interim trail user over the involved right-of-way. The parties state that the line was transferred to Seranata on September 30, 1996.

In a joint motion filed on November 25, 1997, Seranata and the Kansas Horseman Foundation (KHF) request the Board to reopen this proceeding, vacate the existing NITU, and issue an appropriate replacement NITU substituting KHF as the new interim trail manager effective on the service date of the decision. Seranata states that it wishes to terminate its trail use of the corridor and KHF wishes to replace Seranata as the interim trail manager in this proceeding. Seranata and KHF state that they have entered into an agreement to transfer ownership of and management responsibility for the line, including all bridges and ballast to KHF, in accordance with the National Trails System Act, 16 U.S.C. 1247(d).<sup>3</sup> By letter dated September 11, 1997, UP states that it consents to the substitution of KHF as the new interim trail manager, subject to the conditions of the

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<sup>1</sup> In that decision, the Rails-to-Trails Coalition of Kansas was referred to as the "Kansas Rails-to-Trails Coalition, Inc."

<sup>2</sup> MP merged into the Union Pacific Railroad Company (UP) on January 1, 1997.

<sup>3</sup> Seranata and KHF state that this trail will connect to another rail banked line, the Hoisington Subdivision, which is now called the "Flint Hills Greenway," at Overbrook, KS. KHF is the authorized trail manager of the Hoisington Subdivision, having been substituted for Seranata in Missouri Pacific Railroad--Abandonment Exemption--In Osage, Lyon and Morris Counties, KS, Docket No. AB-3 (Sub-No. 111X), et al. (STB served July 25, 1997).

July 29, 1997 agreement between Seranata and KHF, and a prior agreement between MP and Rails-to-Trails Conservancy dated December 6, 1995.

Seranata and KHF have submitted a copy of the extant NITU and a statement of willingness to assume financial responsibility by the new trail user. The parties' submission meets the requirements of 49 CFR 1152.29(f). Accordingly, the requested relief will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served September 12, 1996, is vacated.
3. A replacement NITU applicable to the Kansas Horseman Foundation as interim trail user is issued, effective on the service date of this decision.
4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and the payment of any and all taxes that may be levied or assessed against the right-of-way.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligations for the right-of-way.
6. If the new trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
7. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary

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